

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

MAGTEN ASSET MANAGEMENT  
CORPORATION and LAW DEBENTURE  
TRUST COMPANY OF NEW YORK,

Plaintiffs,

v.

C.A. No. 04-1494 (JJF)

NORTHWESTERN CORPORATION.

Defendant.

MAGTEN ASSET MANAGEMENT CORP.,

Plaintiff,

V.

C.A. No. 05-499 (JJF)

MIKE J. HANSON and ERNIE J. KINDT,

Defendants.

**MOTION OF DEFENDANT NORTHWESTERN CORPORATION FOR  
ORDER STRIKING EXPERT REPORTS AND PRECLUDING TESTIMONY**

Defendant NorthWestern Corporation by and through its undersigned counsel, pursuant to Fed. R. Evid. 702, hereby submits its motion: (i) to strike the expert reports submitted by Robert W. Berliner and Paul A. Marcus; (ii) to preclude reliance thereon by Plaintiffs; and (iii) to preclude any testimony by either Mr. Berliner or Mr. Marcus at trial currently scheduled for March 3, 2008, and in support hereof, relies upon NorthWestern's Memorandum of Law In Support Of Its Motion In Limine To Exclude The Expert Reports And Testimony Of Paul A. Marcus and Robert W. Berliner filed contemporaneously herewith.

Dated: January 10, 2008

**GREENBERG TRAURIG LLP**



Victoria W. Counihan (I.D. No. 3488)

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and

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Co-Counsel for Defendant North Western  
Corporation

**CERTIFICATION PURSUANT TO LOCAL RULE 7.1.1**

The undersigned attorney hereby certifies, pursuant to D. Del. LR 7.1.1, that she has been informed by her co-counsel, lead counsel to movant NorthWestern Corporation, that movant has made reasonable efforts to reach agreement with opposing counsel on the matters set forth in the Motion to no avail.

Dated: January 10, 2008

  
Victoria Watson Counihan (No. 3488)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

MAGTEN ASSET MANAGEMENT	)	
CORPORATION and LAW DEBENTURE	)	
TRUST COMPANY OF NEW YORK,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	C.A. No. 04-1494 (JJF)
	)	
NORTHWESTERN CORPORATION,	)	
	)	
Defendant.	)	
<hr/>		
MAGTEN ASSET MANAGEMENT CORP.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 05-499 (JJF)
	)	
MIKE J. HANSON and ERNIE J. KINDT,	)	
	)	
Defendants.	)	

**CERTIFICATE OF SERVICE**

I, Victoria W. Counihan, being duly sworn according to law, deposes and says that I am employed by Greenberg Traurig, LLP, which is counsel for the NorthWestern Corporation, and that on January 10, 2008, I caused to be served copies of the following to be served upon the parties listed below via: (i) Electronic Mail upon all parties; (ii) Hand Delivery upon Local Counsel; and (iii) Federal Express delivery upon the remaining parties.

- Motion for Order Striking Expert Reports and Precluding Testimony
- Memorandum of Law in Support
- Affidavit of Joseph D. Pizzurro

Dale Dube, Esq. David Carickhoff, Esq. Blank Rome LLP 1201 Market Street, Suite 800 Wilmington DE 19801 (Magten)	Bonnie Steingart, Esq. Gary L. Kaplan, Esq. Fried Frank Harris Shriver & Jacobson LLP One New York Plaza New York NY 10004 (Magten)
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<p>Kathleen M. Miller, Esquire          Smith Katzenstein &amp; Furlow LLP          800 Delaware Avenue, 7th Floor          Wilmington, DE 19801          (Law Debenture)</p>	<p>John V. Snellings, Esq.          Amanda Darwin, Esq.          Nixon &amp; Peabody LLP          100 Summer Street          Boston, Massachusetts 02100          (Law Debenture)</p>
<p>Stanley T. Kaleczyc          Kimberly A. Beatty          Browning, Kaleczyc, Berry &amp; Hoven, P.C.          139 North Last Chance Gulch          P.O. Box 1697          Helena, Mt 59624          (M Hanson/E Kindt)</p>	<p>Denise Seastone Kraft          Edwards Angell Palmer &amp; Dodge LLP          919 North Market Street, 15th Floor          Wilmington, DE 19801          (M Hanson/E Kindt)</p>

Date: January 10, 2008

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